

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Rhodes, Lester Kent
Serial No.: 10/743,630
Filed: 12/22/2003
For: Crane Supporting Apparatus
Art Unit: 3654
Examiner: Brahan, Thomas J.

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APPLICANT'S ARGUMENT/REMARKS MADE IN AN AMENDMENT

The Remarks set forth below are submitted as part of the Applicant's response to the Examiner's *Detailed Action* mailed 6/20/06 and having a response due by 9/20/06. Amendments and a Request for Continued Examination are contemporaneously submitted.

Remarks

1. The Examiner has rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,106,255 issued April 21, 1992, to Motoda, *et al.* The Applicant respectfully traverses said rejection, and requests that the Examiner, upon review of the re-amendment of Amended Claim 1 set forth above, and upon consideration of the traversing argument set forth below, decline to extend said rejection to re-amended Claim 1. Traversing arguments follow:

**Argument Traversing 35 U.S.C. § 102(b) Rejection
of Claim 1 Based Upon *Motoda, et al.***

Amended Claim 1 included a "pedestal" limitation, a "frame mounting means attached to the upper end of the pedestal" limitation,

and a "means for pivoting the pedestal" limitation. Looking to Drawing Fig. 1 of *Motoda*, it can be seen that its crane assembly includes a pedestal 3, and crane mounting means 6 in the form of a mounting plate at the upper end of the pedestal 3. *Motoda's* Fig. 1 indicates that the mounting plate 6 pivots and that the pedestal 3 does not pivot.

In his 6/2/06 office action, the Examiner found that *Notoda's* mounting plate 6 is the pedestal of Amended Claim 1. The Applicant respectfully asserts that the Examiner could have appropriately declined to find that *Motoda's* mounting plate 6 constitutes the pedestal element of Amended Claim 1 and that, upon such finding, the Examiner could have appropriately found that Amended Claim 1 was not anticipated by *Motoda*.

In order to more clearly distinguish from the apparatus of *Motoda*, Amended Claim 1 has been re-amended to include a further limitations specifying a mounting frame, specifying that the pedestal is mechanically linked to the mounting frame, and specifying that the means for alternately pivoting and counter-pivoting pedestal also pivots the pedestal with respect to the mounting frame. The Specification of the instant application states that the pedestal is mechanically linked to the mounting frame (see Specification of the instant application at pg. 6, line 25 through pg. 7, line 1), and states that the pivoting and counter-pivoting motion of the pedestal is with respect to the mounting frame. (See Drawing Figs. 1-4 of the instant application, and see the Specification of the instant application at pg. 14, line 24 through pg. 15, line 3, and at pg. 18,

lines 7-12.) Therefore, no new matter is inserted into the application by virtue of said re-amendment of Amended Claim 1.

Looking to Drawing Figs. 1-3 of *Motoda '255*, it can be seen that its pedestal/mounting plate 6 is not attached to any mounting frame member and that the pedestal/mounting plate 6 is not pivotable with respect to any mounting frame member.

Wherefore, the Applicant respectfully requests that the Examiner's 35 U.S.C. § 102(b) rejection of Amended Claim 1 based upon *Motoda '255* not be extended to re-amended Claim 1.

2. The Examiner has similarly rejected Amended Claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,977,547 issued August 31, 1976 to *Holopainen*. The Applicant respectfully traverses said rejection and requests that the Examiner decline to extend said rejection to re-amended Claim 1. Traversing arguments follow:

**Argument Traversing 35 U.S.C. § 102(b) Rejection
of Claim 1 Based Upon *Holopainen***

Looking to *Holopainen's* Drawing Figs. 1-5, it can be seen that the machine of that patent includes a mounting platform 19. (See Specification of *Holopainen* at column 4, line 15.) Looking to Section 4 of the Examiner's June 2, 2006 *Detailed Action*, the Examiner has equated *Holopainen's* mounting platform 19 with the pedestal element of Amended Claim 1. In Subsection (c) of Section 4 of the Examiner's June 2, 2006 *Detailed Action*, the Examiner concludes that *Holopainen's* stabilizers 36 constitute means for pivoting and counter-

pivoting *Holopainen's* mounting platform 19/pedestal. However, close examination of the drawings and specification of *Holopainen* shows that *Holopainen's* mounting platform 19/pedestal is pivotable only about vertical shaft 18, such shaft establishing the only pivot axis of the platform 19/pedestal. (See Specification of *Holopainen* at column 4, lines 10-13, and see *Holopainen's* Drawing Figs. 2, 4, and 6.) Close examination of *Holopainen's* Drawing Figs. 1, 2, 4, and 5 shows that it would be mechanically impossible for *Holopainen's* stabilizers 36 to pivot its mounting platform 19/pedestal about such platform's pivot axis 18. In any event, were such pivoting motion to be induced by stabilizers 36, such pivoting action would be about the vertical axis, and not about the longitudinal axis as was required by re-amended Claim 1. Accordingly, the Applicant respectfully asserts that the Examiner could have appropriately declined to conclude that *Holopainen's* stabilizers 36 constitute means for alternately pivoting and counter-pivoting the pedestal about the longitudinal axis.

In any event, *Holopainen's* mounting platform 19/pedestal is not mechanically linked to any mounting frame, and *Holopainen's* stabilizers 36 could not, in any event, pivot the mounting platform 19/pedestal both about the longitudinal axis, and with respect to any mounting frame which might be found to exist within the structure of the mechanism of *Holopainen*.

Wherefore, the Applicant respectfully requests that the Examiner decline to extend the anticipation rejection of Amended Claim 1 based upon *Holopainen* to re-amended Claim 1.

3. The Examiner has similarly rejected Amended Claim 1 under 35 U.S.C. § 102(b) as being anticipated by *Pinkston '071*. The Applicant respectfully traverses said rejection, and requests that the Examiner decline to extend said rejection to re-amended Claim 1. Traversing arguments follow:

**Argument Traversing 35 U.S.C. § 102(b) Rejection
of Claim 1 Based Upon *Pinkston***

Regarding *Pinkston '071*, the Examiner has equated *Pinkston's* turntable 28 (which rotates exclusively about the vertical axis) with the pedestal element of Amended Claim 1. Close examination of *Pinkston's* drawings show that *Pinkston's* outriggers and legs assembly 50, 60, 62, 64, 66, 72, and 74 could not function to pivot *Pinkston's* turntable 28/pedestal about such vertical axis. Accordingly, the Applicant respectfully asserts that the Examiner could have appropriately declined to find that *Pinkston's* outriggers and legs assembly constitute means for alternately pivoting and counter-pivoting *Pinkston's* pedestal/turntable 28, and the Examiner could have appropriately declined to find that *Pinkston* was a reference anticipating Amended Claim 1.

Notwithstanding, *Pinkston's* turntable 28/pedestal is not mechanically linked to any frame and, in any event, *Pinkston's* outriggers and legs assembly could not function to pivot the turntable 28/pedestal both about the longitudinal axis and with respect to any structure which might be found to constitute a mounting frame. Accordingly, the Applicant respectfully requests that the

Examiner decline to extend the anticipation rejection of Amended Claim 1 based upon *Pinkston* to re-amended Claim 1.

4. The Examiner has similarly rejected Amended Claim 1 under 35 U.S.C. § 102(b) as being anticipated by *Lanning* '913. The Applicant respectfully traverses said rejection, and requests that the Examiner decline to extend said rejection to re-Amended Claim 1. Traversing arguments follow:

**Argument Traversing 35 U.S.C. § 102(b) Rejection
of Claim 1 Based Upon *Lanning***

Lanning's tub 4/pedestal is not mechanically linked to any mounting frame and, in any event, pivoting motion induced by *Lanning*'s outriggers 10 and 11 could not pivot the tub 4/pedestal both about the longitudinal axis and with respect to any structure which might be found by the Examiner to constitute a mounting frame.

Wherefore, the Applicant respectfully requests that the Examiner decline to extend the anticipation rejection of Amended Claim 1 based upon *Lanning* '913 to re-Amended Claim 1.

5. Upon the making of decisions by the Examiner to decline to extend his four (4) anticipation rejections (i.e., *Motoda*, *Holopainen*, *Pinkston*, and *Lanning*) of Amended Claim 1 to re-Amended Claim 1, the Applicant respectfully requests that re-Amended Claim 1 be allowed.

6. In the event an Examiner's Amendment would result in allowance of any or all claims, the Applicant invites and would welcome such an amendment.

Prayer

WHEREFORE, the Applicant, Lester Kent Rhodes, respectfully requests allowance of pending Claims 1, 3, 4, 6-11, and 13-18.

DATED: August 21, 2006. Respectfully submitted,

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